

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1404

To amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 6 (legislative day, JUNE 30), 1993

Mr. KOHL introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Sunshine in Litigation  
5       Act of 1993”.

1 **SEC. 2. PROTECTIVE ORDERS AND SEALING OF CASES AND**  
2 **SETTLEMENTS RELATING TO PUBLIC**  
3 **HEALTH OR SAFETY.**

4 (a) IN GENERAL.—Chapter 111 of title 28, United  
5 States Code, is amended by adding at the end thereof the  
6 following new section:

7 **“§ 1659. Protective orders and sealing of cases and**  
8 **settlements relating to public health or**  
9 **safety**

10 “(a)(1) A court shall enter an order under rule 26(c)  
11 of the Federal Rules of Civil Procedure restricting the dis-  
12 closure of information obtained through discovery or an  
13 order restricting access to court records in a civil case only  
14 after making particularized findings of fact that such  
15 order would not restrict the disclosure of information  
16 which is relevant to the protection of public health or  
17 safety.

18 “(2) No order entered in accordance with the provi-  
19 sions of paragraph (1) shall continue in effect after the  
20 entry of final judgment, unless at or after such entry the  
21 court makes a separate particularized finding of fact that  
22 such order would not prevent the disclosure of information  
23 which is relevant to the protection of public health or  
24 safety.

1 “(b) The party who is the proponent for the entry  
 2 of an order, as provided under this section, shall have the  
 3 burden of proof in obtaining such an order.

4 “(c)(1) No agreement between or among parties in  
 5 a civil action filed in a court of the United States may  
 6 contain a provision that prohibits or otherwise restricts a  
 7 party from disclosing any information relevant to such  
 8 civil action to any Federal or State agency with authority  
 9 to enforce laws regulating an activity relating to such  
 10 information.

11 “(2) Any disclosure of information to a Federal or  
 12 State agency as described under paragraph (1) shall be  
 13 confidential to the extent provided by law.”.

14 (b) TECHNICAL AND CONFORMING AMENDMENTS.—  
 15 The table of sections for chapter 111 of title 28, United  
 16 States Code, is amended by adding after the item relating  
 17 to section 1658 the following:

“1659. Protective orders and sealing of cases and settlements relating to public  
 health or safety.”.

18 **SEC. 3. EFFECTIVE DATE.**

19 The amendments made by this Act shall take effect  
 20 30 days after the date of the enactment of this Act and  
 21 shall apply only to orders entered in civil actions or agree-  
 22 ments entered into on or after such date.

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